

BEARING THE BRUNT

The Impact of Government Responses to
COVID-19 on Indigenous Peoples in India



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COVID-19 on Indigenous Peoples in India**

A joint report by the National Campaign
Against Torture, ILAI and IWGIA



Indigenous villagers affected by iron mining in Saranda Forest, Jharkhand
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Cover photograph: This enormous coal mining pit is in Dipi Chora Block, Rajpur district, Balrampur, Chhattisgarh, India. It used to be a thriving forest on Indigenous Peoples' land and was established without their free, prior and informed consent.
CREDIT: Signe Leth

Acronyms

CCEA	Cabinet Committee on Economic Affairs
CRPF	Central Reserve Police Force
DFO	Divisional Forest Officer
EHEP	Etalin Hydro Electric Project
EIA	Environmental Impact Assessment
FAC	Forest Advisory Committee
FC	Forest Clearance
HC	High Court
MFP	Minor Forest Produce
MoEFCC	Ministry of Environment, Forests and Climate Change
PDS	Public Distribution System
PMJDY	Pradhan Mantri Jan Dhan Yojana (Prime Minister's People's Wealth Scheme)
PVTG	Particularly Vulnerable Tribal Group
MGNREGA	Mahatma Gandhi National Rural Employment Guarantee Act
NBWL	National Board for Wildlife
NECF	North-Eastern Coalfields
NTFP	Non-Timber Forest Products
PESA	Panchayats (Extension to the Scheduled Areas) Act, 1996
PIL	Public Interest Litigation

About IWGIA

IWGIA – International Work Group for Indigenous Affairs – is a global human rights organisation dedicated to promoting, protecting and defending Indigenous Peoples' rights.

Since 1968, IWGIA has cooperated with Indigenous Peoples' organisations and international institutions to promote the recognition and implementation of the rights of Indigenous Peoples. IWGIA works to empower Indigenous Peoples through documentation, capacity development and advocacy on a local, regional and international level. To achieve our mission we provide documentation, support advocacy and empower Indigenous Peoples' organisations and institutions via global partnerships.

IWGIA was founded in 1968 by anthropologists alarmed about the ongoing genocide of Indigenous Peoples taking place in the Amazon. The aim was to establish a network of researchers and human rights activists to document the situation of Indigenous Peoples and advocate for an improvement of their rights.

Today Indigenous Peoples from all over the world are involved in IWGIA's global network. Still, the key drivers for change in our work are documentation, empowerment and advocacy.

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Executive Summary

In India, 705 ethnic groups are recognised as Scheduled Tribes.¹ In central India, the Scheduled Tribes are usually referred to as Adivasis, which literally means Indigenous Peoples. There are, however, many more ethnic groups that would qualify for Scheduled Tribe status, but which are not officially recognised; as a result, estimates of the total number of tribal groups are higher than the official figure. The Indigenous Peoples of the country, as per 2011 census, is 10.43 crore, constituting 8.6% of the total population. 89.97% of the Indigenous Peoples live in rural areas.² With over 104 million people, India has the second largest population of Indigenous Peoples in the world, who are officially recognised as Scheduled Tribes.

India has several laws and constitutional provisions for Scheduled Tribes, such as the Fifth Schedule for central India and the Sixth Schedule for certain areas of north-east India, which recognise Indigenous Peoples' rights to land and self-governance. There are also laws on affirmative action such as reservations for Scheduled Tribes in educational institutions and government jobs. The laws aimed at protecting Indigenous Peoples have numerous shortcomings and their implementation is far from satisfactory. As

a result, the Indigenous Peoples have been victims of frequent forced evictions, land grabbing by the State as well as non-state actors, repression, arbitrary arrests, and killings. For example, on 13 February 2019, India's Supreme Court ordered the 21 state governments to evict more than a million tribals and forest dwellers and their families whose claims over the forest land had been rejected by the authorities under the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act (FRA), 2006. The said order was, however, put on hold by the Supreme Court on 28 February 2019 after the central government filed a plea seeking modification of the 13 February order stating that FRA was "beneficial" legislation and that it should be construed liberally to help the tribals and forest dwellers who *"are extremely poor and illiterate people and not well informed of their rights and procedure under the Act. They live in remote and inaccessible areas of the forest. It is difficult for them to substantiate their claims before the competent authorities."*³ Although the eviction order was stayed, at least 1,757,136 tribals and forest dwellers whose forest rights claims were rejected as of 31.1.2020 remained at risk of eviction.⁴



Indigenous women dancing, Odisha
CREDIT: Signe Leth

India's Indigenous Peoples remain among the poorest of country, have generally lower literacy rates and worse health indicators than the non-indigenous population. According to the 2011 census, 40.6% of the Scheduled Tribe population lived below poverty line, compared to 20.5% of the non-tribal population. Food security and nutrition are also much worse in tribal areas than in other parts of the country.⁵ As this report will show, all of this makes India's Indigenous Peoples particularly vulnerable to the impact of the COVID-19.

As the entire world came to a standstill with the COVID-19 pandemic, India took a series of measures to imperil the future of the Indigenous Peoples of the country beyond repair. In the middle of the COVID-19 pandemic when the common people struggled for food, shelter, healthcare, transport etc after the sudden declaration of a national lockdown with effect from 25 March 2020, the Government of India chose to target the Indigenous Peoples during complete national lockdown (from 25 March to 31 May) and partial lockdown (from 1 June onwards) and it continues till today.

The situation of the Indigenous Peoples was thus already precarious prior to the COVID-19 but the COVID-19 pandemic has worsened their situation as the State has continued to systematically target them during the pandemic when they were struggling for food, shelter, livelihood and protection from the deadly virus.

The following key trends establish the same:

- On 11 April 2020 in the midst of complete lockdown, the Ministry of Environment, Forests and Climate Change (MoEFCC) released a new Draft Environmental Impact Assessment Notification of 2020 (Draft EIA 2020) giving 60 days time to the public to submit comments and objections. The Draft EIA 2020, among others, seeks to override the powers of the Gram Sabha (Village Council) guaranteed under the Panchayats (Extension to the Scheduled Areas) Act, 1996 (PESA) and the Forest Rights Act, 2006 and exempted some projects from prior Environmental Clearance and holding of public consultations. As the entire nation was locked down inside their homes, this was nothing but an attempt to by-pass the public. The Central government did not comply with the directions given by the Delhi High Court (HC) on 30 June 2020 to print/publish the Draft EIA 2020 in 22 languages mentioned in the Eighth

Schedule of the Constitution within 10 days,⁶ and it has been facing contempt proceedings.⁷ The Supreme Court too dismissed the appeal filed by the Central Government against printing/publishing in 22 official languages.⁸ The Karnataka HC, while hearing a Public Interest Litigation (PIL) against the short deadline, remarked, *"The approach of the respondents (Central Government) suggests that perhaps those who don't understand Hindi and English language need not file comments or objections to the notification."*⁹

- On 24 April 2020, in the midst of complete national lockdown, the National Board for Wildlife (NBWL) under the MoEFCC approved the continuation of coal mining by the North-Eastern Coalfields (NECF), a unit of the government-run Coal India Ltd (CIL) at Saleki forest reserve which is part of the Dehing Patkai Elephant Reserve in Assam¹⁰ despite a site inspection report submitted by the Shillong Regional Office of the MoEFCC to its head office in New Delhi on 25 November 2019 which stated that the NECF continued illegal mining inside the Dehing Patkai forest even after its 30-year mining lease expired in 2003 and had applied for a renewal only in 2012.¹¹ The mining proposal threatened to destroy critical biodiversity and livelihood of several Indigenous communities including Khamti, Singpho, Nocte, Ahom, Kaibarta, Moran and Motok, as well as Tea-tribes¹² who have been traditionally living in co-existence with the forest and using its resources.¹³ Opposing the coal mining project, the activists of the All Assam Students' Union (AASU) protested holding banners and placards near the Dehing Patkai wildlife sanctuary in Tinsukia district on 21 May 2020,¹⁴ held sit-in demonstrations at Swahid Bakari of North Lakhimpur town in Lakhimpur district on 23 May 2020 and at Panigaon Chariali in Nagaon district on 23 May 2020.¹⁵ Online campaign was also launched seeking to reverse the decision on coal mining in the Dehing Patkai Elephant Reserve.¹⁶ Following strong protests from the AASU, actors, singers, wildlife activists and environmentalists, on 3 July 2020, the NBWL ordered the Coal India Ltd. to stop all mining activities inside the Dehing Patkai forest.¹⁷
- On 18 June 2020, during partial lockdown, India opened 41 coal mines for commercial mining spread across Maharashtra (three mines), Jharkhand (nine), Odisha (nine), Chhattisgarh (nine) and Madhya Pradesh (11) as part of the

Aatma Nirbhar Bharat Abhiyan (Self-Reliant India Mission).¹⁸ Analysis of the descriptions of the 41 coal mines available on the website of the MSTC Limited under the administrative control of the Ministry of Steel, Government of India¹⁹ found that a staggering 30 coal blocks (73%) do not have the mandatory forest clearance required under the Forest (Conservation) Act of 1980, and 37 coal blocks (over 90%) do not have the mandatory Environmental Clearance required under the Environment Impact Assessment Notification 2006. Prime Minister Narendra Modi, while launching the auction process of 41 coal blocks for commercial mining, stated that “...reforms and investment in the coal sector will play a big role in easing the lives of tribals”,²⁰ clearly indicating that the Indigenous tribal peoples will be the primary victims of this disastrous assault on the environment and forests. As per the “Updated Schedule of the Tender Process - Auction of Coal mines for Sale of Coal” dated 08.08.2020, the auction shall take place on 11 September 2020.²¹

- On 18 July 2020, the Cabinet Committee on Economic Affairs (CCEA), chaired by Prime Minister Narendra Modi, gave the go-ahead to the Etalin Hydro Electric Project (EHEP) on the Dibang river near Munli village in the Lower Dibang Valley district of Arunachal Pradesh and approved Rs 1,600 crore (16 billion Rupees, about 215 million USD) as pre-investment expenditure for the project.²² The clearance was given by the CCEA, although the decision on granting of forest clearance is still pending before the Forest Advisory Committee (FAC) under the MoEFCC. The FAC in its meeting held on 23 April 2020 refused to give forest clearance to the project but sought more information from the Ministry of Power, State government of Arunachal Pradesh and the impact assessment division of the MoEFCC to check if the environmental impact of the project had been assessed and sought inputs from the National Tiger Conservation Authority on this.²³ In the said meeting, the FAC stated, “*The proposed project falls under the richest bio-geographical province of the Himalayan zone and falls under one of the mega bio-diversity hotspots of the world.*”²⁴ Since the proposal seeking prior approval had first come to the FAC in 2014, the matter had been considered by the FAC on 28.01.2015, 28.02.2017 and 17.10.2019 without a decision on clearance.²⁵ If approved, the project will adversely affect Indigenous Idu Mishmis of the area^{26, 27} whose popula-

tion in Arunachal Pradesh as per the Census 2011 was 32,219.²⁸

- By 23 May 2020, more than 30 proposals were cleared or discussed over virtual meetings during the lockdown by India’s highest advisory bodies on wildlife and forests, namely the National Board for Wildlife and the Forest Advisory Committee under the MoFECC. The proposals are likely to affect 15 tiger reserves, sanctuaries, eco-sensitive zones, wildlife corridors, and other forest areas. The projects include a coal mining proposal in Dehing Patkai Elephant Reserve in Assam as mentioned above, a highway through Bhagwan Mahavir Wildlife Sanctuary in Goa, a limestone mine in the eco-sensitive zone of Gir National Park,²⁹ and a geotechnical investigation in the Sharavathi Lion-Tailed Macaque Sanctuary in Karnataka, as well as the EHEP in Arunachal Pradesh mentioned before.³⁰

The lands inhabited by Indigenous Peoples from time immemorial are the only areas in India with healthy forests, rich biodiversity and other natural riches. Not only are their ancestral lands the specific target of India’s accelerated economic development initiatives during the COVID-19 lockdown, Indigenous Peoples themselves face the most serious challenges by the COVID-19 pandemic as highlighted below:

- In the midst of total national lockdown, Indigenous Peoples were forcibly evicted by the authorities across the country. On 6 April 2020, forest department officials torched the huts of Konkani, Bhil and Warli Indigenous communities at Kamat village in Dang district, Gujarat.³¹ On 7 April 2020, an eviction notice was issued to 90 families of Dzuluk settlement in East District of Sikkim by the Divisional Forest Officer (DFO), asking them to vacate their homes within 15 days.³² On 24 April 2020, the forest department officials demolished homes of 32 Adivasis living at Sagada village in Khandualmali forest area in Kalahandi district of Odisha, forcing them to live under mahua trees (*Madhuca longifolia*) and surviving for many days on *mahua* leaves.³³ In June 2020 80 Koya tribal families of Satyaranarayanam of Ganugapadu in Bhadradi Khotagudem district of Telangana were evicted by the forest department.³⁴
- The sudden lockdown imposed from the night of 24 March 2020 severely impacted millions of migrant workers including Indigenous Peoples

who had migrated to cities and towns in search of jobs, primarily in construction and other unorganised sectors.ⁱ

- As all commercial establishments were closed down, millions of Indigenous migrant workers left for their homes after losing their jobs. Many were left stranded without food and shelter, while others walked hundreds of kilometers in absence of public transport in the initial days of the lockdown. Several tribals died during their journey home. In Chhattisgarh alone, half of the over 140,000 migrant workers estimated by the State government were tribals.³⁵ Most of them have reportedly walked hundreds of kilometers to reach home.³⁶
- The COVID-19 pandemic and the lockdown severely impacted the traditional livelihood of the Indigenous Peoples as the period from March to June is the peak season for collection and selling of Non-Timber Forest Products (NTFP), also called Minor Forest Produce (MFP). Almost 60% of the annual collection of MFP takes place during this period. However, since this period has coincided with the lockdown induced by the COVID-19 pandemic, it adversely affected the income generation of the Indigenous communities.³⁷ According to the Ministry of Tribal Affairs, around 100 million forest dwellers, including Indigenous Peoples, depend on MFPs for food, shelter, medicines and cash income.³⁸
- The COVID-19 pandemic and the lockdown exacerbated the food crisis among Indigenous tribal communities as the inability of the government to reach out to the tribals has caused hunger and starvation. The Government of India provided free grain (wheat or rice) for the months of April, May and June under the Pradhan Mantri Garib Kalyan Anna Yojana (PMGKAY), but data released by the Centre showed that 200 million ration card holders did not receive the free grain in April³⁹ and around 144.5 million beneficiaries did not get their entitlement for the month of May.⁴⁰ Official data of the Ministry of Consumer Affairs, Food and Public Distribution also stated that only 13% of migrant workers received free food grain under the Aatma Nirbhar Bharat Abhiyan.⁴¹ On 12 May 2020, Prime Minister Narendra Modi announced a special economic package of Rs 20 lakh crore (equivalent to 10% of India's GDP) with the aim of making India self-reliant by promoting local economy and to bring the economy back on track. Following this announcement, the Finance Minister, Ms. Nirmala Sitharaman, through five press conferences, announced the detailed measures under the Aatma Nirbhar Bharat Abhiyan which included economic reforms, assistance to Micro, Small and Medium Enterprises (MSMEs), Agriculture and Allied sectors, Migrant workers, civil aviation, defence, energy and social sector, among others.⁴² On 30 June, Prime Minister Narendra Modi extended the free ration programme for over 800 million people by five more months till November end.⁴³ However, those without ration cards, including tens of thousands of Indigenous Peoples who have not been issued ration cards as on date remain excluded. Those denied food due to absence of ration cards included 243 out of 791 tribal families in Anaimalai and Valparai hills of Tamil Nadu;⁴⁴ about 70,000 Adivasi tea garden workers in the Barak Valley region of Assam;⁴⁵ and over 65,000 Chakmas and Hajongs in Arunachal Pradesh.⁴⁶ Consequently, thousands of Indigenous Peoples across the country have been facing a starvation-like situation and some deaths were reported.
- Since schools were closed due to the pandemic and teaching done online instead, an entire generation of tribal students does currently not have access to education because of the lack of infrastructure that ensures proper internet access. The literacy rate of Indigenous Peoples was only about 59% in 2011, much below the national average of 73%.⁴⁷
- Indigenous tribal peoples continued to be easy targets of police atrocities. One Indigenous person identified as Tibu Meda (65 years) was allegedly beaten to death by police for violating lockdown rules in Dhar district in Madhya Pradesh on 3 April 2020.⁴⁸ The police even filed a case against the tribal women for demanding implementation of COVID-19 guidelines in Himachal Pradesh⁴⁹ or simply for demanding ration cards to procure foods and essential commodities during the lockdown.⁵⁰

i. In India, unorganised sector has been defined by National Commission for Enterprises in the Unorganised Sector as "... consisting of all unincorporated private enterprises owned by individuals or households engaged in the sale or production of goods and services operated on a proprietary or partnership basis and with less than ten total workers".

Despite Indigenous Peoples being the worst effected by COVID in India, the Government of India failed to consider any specific plans for Indigenous Peoples. On 12 May 2020, Prime Minister Narendra Modi announced an economic package of Rs. 20 lakh crores (20 trillion Rupees, which is over 260 billion USD) for building “Aatma Nirbhar Bharat” (Self-reliant India). But the economic package made no special provisions for tribals and forest dwellers who will be deprived in the generalised allocations despite their lands and territories being targeted under the Aatma Nirbhar Bharat Abhiyan.⁵¹

India’s policy is contrary to the measures taken by a number of countries such as the establishment of the National Aboriginal and Torres Strait Islander Advisory Group on COVID-19 by Australia,⁵² the Indigenous Community Support Fund established by Canada,⁵³ or the signing of the Coronavirus Preparedness and Response Supplemental Appropriations Act, 2020 by the President of the United States, which includes targeted funding for tribes, tribal organizations, urban Indian health organizations, or health service providers to tribes.⁵⁴

Obviously, India failed to implement its much-vaunted reservation policy, which recognises vulnerability of the Indigenous Peoples, in the financial package for Aatma Nirbhar Bharat Abhiyan. Furthermore, making coal mining one of the main thrusts of the government’s economic stimulation package in response to the COVID-19 pandemic is the opposite of what other countries are doing or what the UN Secretary General Antonio Guterres – without naming India –stated on 26 June 2020, “*There is no good reason,*

for example, for any country to include coal in their COVID-19 recovery plans. This is the time to invest in energy sources that don’t pollute, don’t cause emissions, generate decent jobs and save money”.⁵⁵

Therefore, in order to ensure that India’s COVID-19 response respects human rights and in particular the rights of Indigenous Peoples, helps in addressing the global climate crisis and in protecting the environment it is recommended that the government of India takes the following measures:

- Ensure that the Environmental Impact Assessment Notification, 2020, if adopted as an executive order, does not override, amend or supersede the statutory provisions, but expressly provides for compliance with the statutory laws like the PESA Act and the Forest Rights Act, and the Supreme Court judgments relating to powers of the Gram Sabha on giving consent for projects;
- Cancel the Etalin Hydro Electric Project in the Dibang Valley of Arunachal Pradesh and, instead, invest the allocated funds for developing green energies;
- Implement the recommendations of the UN Secretary General to not include coal in the COVID-19 recovery plans and cancel the coal mines allocated for auctioning and therefore, cancel the on-line auction slated for 11 September 2020;⁵⁶ and
- Develop a specific COVID-19 recovery plan for and with the Indigenous Peoples of the country.

1. Introduction

India has the second largest population of Indigenous Peoples in the world. In the last national census of 2011, 104.28 million people (8.6% of India's total population) were identified as belonging to Scheduled Tribes, the official designation for Indigenous Peoples. Indigenous Peoples living in mainland India (i.e. excluding north-east India) are usually referred to as Adivasis, which literally means "earliest inhabitants", and thus is coterminous with Indigenous Peoples. A major development in terms of official recognition of Indigenous Peoples in the country is the use of the designation "Indigenous populations of North-Eastern States" when the Government introduced the, otherwise controversial, Citizenship Amendment Bill in the Lok Sabha (lower house of Parliament) in 2019. In this report, the terms Indigenous Peoples, Schedule Tribes, tribes and tribals are used interchangeably.

705 ethnic groups are recognised as Scheduled Tribes. There are, however, many more ethnic groups that would qualify for Scheduled Tribe status but which are not officially recognised. As a result, estimates of the total number of Indigenous Peoples are higher than the official figure. The largest concentrations of Indigenous Peoples are found in the seven states of north-east India, and the so-called "central tribal belt" stretching from Rajasthan to West Bengal.

India has several laws and constitutional provisions for Scheduled Tribes, such as the Fifth Schedule for central India and the Sixth Schedule for certain areas of north-east India, which recognise Indigenous Peoples' rights to land and self-governance. There are also laws on affirmative action such as reservations for Scheduled Tribes in educational institutions and government jobs. However, these laws have numer-

ous shortcomings and, above all, are not properly implemented.

Thus, India's Indigenous Peoples remain among the poorest of country, have generally lower literacy rates and worse health indicators than the non-indigenous population. According to the 2011 census, 40.6% of the Scheduled Tribe population lived below poverty line, compared to 20.5% of the non-tribal population. Food security and nutrition are also much worse in tribal areas than in other parts of the country.⁵⁷ As this report will show, all of this makes India's Indigenous Peoples particularly vulnerable to the impact of the COVID-19.

The report also documents that the current government used the COVID-19 lockdown to step up the exploitation of the country's natural wealth for the benefit of private companies and to the detriment of the poor, ignoring India's constitutional and legal protections of the rights of Indigenous Peoples, as well as legal safeguards for the protection of the environment.

This report is the result of a joint effort of the National Campaign Against Torture, ILAI and IWGIA which monitored the violations of the rights of Indigenous Peoples since the national lockdown announced from 24 March 2020 and the responses of the government of India to the COVID-19 pandemic. ILAI also interviewed local Indigenous Peoples' activists opposing various initiatives of the Government of India in the North East while it also made a submission to reject the Draft EIA notification 2020. A number of cases referred herein are currently subject to adjudication by the National Human Rights Commission.



Indigenous woman, Odisha.
CREDIT: Signe Leth

Chapter 1

Impacts of COVID-19 on
Indigenous Peoples in India

Initially, COVID-19 started slowly in India, which was partly due to the government's early total lockdown on 25 March. However, the government responses have had (and still have) serious impacts on the poor and vulnerable people, in particular Indigenous Peoples.

1.1. Violence by security forces

State security forces have used violence to enforce the nationwide COVID-19 lockdown. A number of victims belong to Indigenous communities. Ironically, the police for instance filed a case against tribal women for demanding implementation of COVID-19 guidelines.

Case 1: Death of elderly tribal in Madhya Pradesh

On 3 April 2020, a 65-year-old tribal man of Holimal village in Khargone district, Madhya Pradesh, was allegedly beaten to death by the police for violating lockdown rules in Dhar district in Madhya Pradesh. The deceased had gone with his son-in-law to Gujar village in Dhar district as the shop in his village had run out of essential supplies during the lockdown. The family members alleged that he was beaten to death by the police. According to his son, the police came in about five vehicles and started beating them with batons without provocation. However, the district administration claimed that the elderly man died of a heart attack on seeing the police and there were no bruises on the body.⁵⁸

Case 2: Beating of three tribal boys in Arunachal Pradesh

On 29 March 2020, a video surfaced from Lower Subansiri district of Arunachal Pradesh showing Central Reserve Police Force (CRPF) personnel making three tribal boys do push-ups, while one of them was beaten with a *lathi* (stick), allegedly for violating lockdown rules. The incident was confirmed by the Superintendent of Police, Lower Subansiri district who stated that the incident took place on 27 March 2020 and necessary action against the guilty CRPF personnel was being taken.⁵⁹

Case 3: Beating of Adivasi women by police in Assam

On 30 March 2020, a video of a policeman beating three Adivasi women in Golaghat district of eastern Assam was broadcast by DY365, a leading Assamese news channel. In the video, two women, seen carrying vegetables on a bicycle, were stopped, abused and beaten with a stick by the policeman, allegedly for "violating" the ongoing lockdown. A little later, the po-

liceman walked ahead and assaulted another woman carrying firewood from a field.⁶⁰

Case 4: Beating of a tribal man by the police in Gujarat

On 16 June 2020, a tribal man was allegedly beaten in the Limdi police station in Dahod district of Gujarat when he wanted to file a complaint against a toll operator. According to the police, the man had gone to a toll plaza on June 16 near Limdi on National Highway 47, but had refused to pay the toll claiming that he was a local. The police were called and he was brought to the police station. He alleged that he wanted to file a complaint against the toll operator but the police inspector on duty took him to his chamber and allegedly abused and assaulted him while making abusive references to his lower caste. A case against the police inspector was registered under the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act and the Indian Penal Code (IPC).⁶¹

Case 5: Case filed against 199 tribal women in Himachal Pradesh

On 9 June 2020, about 199 tribal women were booked by the police for protesting at the entry gate of a village in Himachal Pradesh demanding that the State's agriculture minister and his entourage be placed under quarantine for entering the valley in violation of the COVID-19 norms. They were booked under sections 341 (wrongful restraint), 143 (unlawful assembly) and 188 (disobedience of public order) of the IPC.⁶²

1.2. Loss of jobs and reverse migration to native places

Since liberalisation of the Indian economy in 1990s, hundreds of thousands of tribal people migrated to towns and cities, primarily to work in unorganised sectors. Following the nationwide lockdown, all commercial establishments have been closed and this has resulted in joblessness forcing hundreds of thousands migrant workers including tribals to return to their hometowns or villages. Many were left stranded without food and shelter, while others walked hundreds of kilometers in absence of public transport. Many tribal migrants who returned home by train or air have been found to be COVID-19 positive and such patients were treated in designated COVID-19 hospitals. There is clear indication that many migrant labourers and students carried the virus or contracted the virus during their journey as all the northeastern states which otherwise had very small number of

COVID-19 cases witnessed sudden increase in number of COVID-19 positive cases after the arrival of the migrants.

In Chhattisgarh, half of the over 140,000 migrant workers estimated by the State government were tribals. On the first train which carried workers back to Jharkhand from Hyderabad, at least 45 per cent were Adivasis from the districts of Gumla and Simdega. About 30,000 Adivasis from Jhabua district in Madhya Pradesh were stranded in Gujarat and Maharashtra where they had gone for work.⁶³ On 29 March 2020, *The New Indian Express* reported that due to the lockdown about 200 migrant labourers belonging to the Soliga tribe were stranded at coffee estates in a village of Kodagu district near the Karnataka-Kerala border and were running out of food. It was also reported that many other migrant tribals were stranded in Madikeri, Virajpet and other places in Kodagu district and were living in dire situations.⁶⁴ On 27 March 2020, *The Hindu* reported that over 30,000 tribal labourers from Jhabua district in Madhya Pradesh have returned from Gujarat, Rajasthan and Maharashtra, and another 30,000 from this district were left stranded in these States.⁶⁵ Another report by *Down To Earth* on 25 March 2020 stated that thousands of migrant workers, mostly tribals, returned to their homes in Banswara, Dungarpur, Udaipur and Sirohi districts of Rajasthan, Jhabua district in Madhya Pradesh, and the tribal districts of Dahod, Panchmahals, Banaskantha, Sabarkantha in Gujarat. Most of them have reportedly walked hundreds of kilometers in absence of public transport.⁶⁶ On 18 April 2020, a 12-year-old tribal girl died after walking about 100 km for over three days through dense forest to reach her village in Bijapur district of Chhattisgarh from Telangana. She, along with other migrant workers, decided to travel on foot to their home state following the lockdown.⁶⁷

The government has no data of the number of tribal migrant workers who have returned or are about to return to their native states. On 9 May 2020, Union Minister for Tribal Affairs Arjun Munda stated that his Ministry and the Ministry of Rural Development were developing a dedicated data bank of tribal migrant workers who returned or are about to return to their home states in order to give a push to livelihood generation amid the COVID-19 outbreak and large-scale loss of livelihood of the workers. But, the Ministry of Tribal Affairs stated that the process to collate data from states has been challenging so far and progress has been slow.⁶⁸

Apart from loss of jobs, the risk of returning migrant workers carrying the disease to tribal areas has become a reality now.⁶⁹ For example, the tribal dominated north-eastern states, which have reported nil or very few cases in the initial months, have now been reporting COVID-19 positive cases on a daily basis. As of 18 August 2020, Assam reported 79,667 positive cases, Tripura reported 7,409 cases, Manipur 4,687 cases, Nagaland 3,455 cases, Arunachal Pradesh 2,741 cases, Meghalaya 1,418 cases, Sikkim 1,187 cases and Mizoram 789 cases.⁷⁰ The spread of the virus in the rural areas without any or very poor health infrastructure will have a devastating impact on the vulnerable tribal population.

Apart from the migrant labourers, Indigenous students also were forced to return to their respective states after all educational institutions and hostels were closed down during the COVID-19 lockdown. On 9 May 2020, 13 Northeastern female students who were stranded due to the lockdown were asked to vacate the North Eastern Students House for Woman of the Delhi University by 31 May 2020.⁷¹ They were allowed to stay only after the intervention by the Union Minister for Development of the Northeastern Region (DoNER), Jitendra Singh.⁷² Similarly, the students from the Northeast also faced the risk of eviction from hostels of the Jawaharlal Nehru University (JNU) in Delhi as the university asked the hostellers to return to their respective homes.⁷³ On the other hand, students from across the country chose to return voluntarily as they were unable to pay rent and there was no prospect of reopening of educational institutions and their returns were facilitated by their respective state governments. Due to the extension of the lockdown, the students got stranded due to lack of transportation and faced immeasurable sufferings. For example, over 300 students from different states of the Northeast were stranded in Chandigarh.⁷⁴ A group of 22 girl students hailing from the Northeastern states of Assam, Meghalaya and Nagaland were stranded in Delhi since the announcement of nation-wide lockdown while returning home from Himachal Pradesh's Palampur after their exams were over.⁷⁵

1.3. Lack of access to lockdown relief and food aid

The 2011 census data shows that 40.6% of India's tribal population lived below poverty line, compared to 20.5% of the non-tribal population. Thus, it is not surprising that tribals are among the worst-hit by the lockdown.

The Covid-19 pandemic exacerbated the food crisis among tribal communities. The Government of India provided free grain (wheat or rice) to all the ration card holders for the months of April, May and June under the Pradhan Mantri Garib Kalyan Anna Yojana (PMGKAY), but data released by the Centre showed that 200 million ration card holders did not receive the free grain in April⁷⁶ and around 144.5 million beneficiaries did not get their entitlement for the month of May.⁷⁷ Furthermore, on 14 May 2020, Finance Minister Nirmala Sitharaman announced free rations for two months (May and June) for 8 crore (80 million) migrant workers who do not have ration cards under the Aatma Nirbhar Bharat package.⁷⁸ However, official data of the Ministry of Consumer Affairs, Food and Public Distribution stated that only 13% migrant workers received free food grain.⁷⁹ On 30 June, Prime Minister Narendra Modi extended the free ration programme for over 80 crore people by five more months till end of November.⁸⁰

However, those without ration cards, including tens of thousands of tribals, will remain excluded. Tribals have been facing starvation across the country. In May 2020, a report by forest rights groups, researchers and experts submitted to the Ministry of Tribal Affairs highlighted the poor access to the Public Distribution System (PDS) among tribal people and other traditional forest dwellers during the lockdown.⁸¹

On 30 April 2020, the Bombay High Court directed the Maharashtra government to initiate the process of issuing ration cards to eligible peopleⁱⁱ in tribal areas in Thane, Palghar, Raigad, Nashik, Dhule, Nandurbar, Jalgaon, Chandrapur, Gadchiroli, Bhandara, Gondia, Nagpur, Yavatmal and Amravati districts after the government informed it that it is supplying food to those holding ration cards. The petitioner stated that the extremely impoverished Adivasis and others in these areas were not receiving adequate supplies of essential food.⁸² On 15 May, the Bombay High Court further directed the Maharashtra government and civic authorities to ensure that food and basic necessities reach the tribal communities across the state amid the COVID-19 lockdown.⁸³ But the Maharashtra government showed its reluctance and on 28

May 2020, case was filed against more than 250 tribals under sections 188 (disobedience), 269 (spread of infection) of the Indian Penal Code and relevant sections of the Epidemic Diseases Act, 1897ⁱⁱⁱ and the National Disaster Management Act, 2005 for staging a sit-in protest in front of the *tehsil* (sub-division) offices in Palghar demanding ration cards.⁸⁴

On 13 May 2020, a division bench of the Telangana High Court directed the State Civil Supplies Commissioner to supply 12 kg of rice to stranded migrant workers and tribals without insisting on biometrics and identity particulars during the lockdown. A bench comprising Justice MS Ramachandra Rao and Justice K Lakshman stated,

*"The poor beneficiaries should be exempted from the biometric scanning during the lockdown period. Tribals work in extreme conditions and going by their age and other factors, their fingerprints get erased. Given this, insisting on biometric scanning will deprive them of the essentials that they badly need now."*⁸⁵

The Telangana High Court also directed the authorities to provide one-time financial assistance of 1,500 Rupees (20 USD) to all white ration card^{iv} holders irrespective of whether or not they had drawn rice in the last three months.⁸⁶ Two petitions were filed before the High Court by activists alleging that the state government of Telangana had deactivated lakhs of white ration cards during the lockdown on a false premise that many of them did not need financial assistance because they were well off or ration cards were fake.⁸⁷

The lack of access to food resulted in starvation deaths and hunger among the tribal communities. On 24 June 2020, 46-year-old tribal woman allegedly died of starvation in Nayagarh district of Odisha. Reportedly, the deceased went without food for three days and collapsed after she went into the forest. A fact-finding team from Odisha Khadya Adhikar Abhiyan, an NGO, visited her village after the death was reported and found that she did not have access to food for three days before she died. Sameet Panda,

ii. An eligible person must be an Indian citizen, and economically poor as per the Socio-Economic Censuses 2011.

iii. The details of the Epidemic Diseases Act, 1897 can be accessed at <http://legislative.gov.in/sites/default/files/A03-1897.pdf> or <https://www.ndmindia.nic.in/images/The20%Disaster20%Management20%Act,202005%.pdf>

iv. There are three types of ration cards in India: Yellow, Saffron and White. While Ration Card is given to those families whose annual income is above Rs 100,000 i.e. a bit well off considering the two other categories.

one of the members of the forum on food rights stated that the deceased was dependent on collection of non-timber forest produce from nearby jungles as she had no other source of income. Her access to subsidised food grain supplies from the PDS was limited and irregular. It was also reported that the tribal woman didn't have a job card under the Mahatma Gandhi National Rural Employment Guarantee Act (MGNREGA), which could have provided her unskilled work. She also did not get any support provided by the central government under the Pradhan Mantri Jan Dhan Yojana (PMJDY, Prime Minister's People's Wealth Scheme) as assistance during the lockdown. She didn't get the rice and dal (lentils) either that is offered under the Pradhan Mantri Garib Kalyan Yojana (Prime Minister's Poor Welfare Scheme).⁸⁸

On 16 May 2020, a five-year-old tribal girl allegedly died of starvation in Latehar district of Jharkhand. The child's mother said she was struggling to feed her children as she had no food in the house. She received no support from the government except for one instalment of 500 Rupees (6.5 USD) in her PMJDY account along with small amounts of food or cash from the school and anganwadi.⁸⁹

In April 2020, a disabled tribal girl died due to alleged starvation in Tikahara in Bokaro district of Jharkhand. The family did not have a ration card and has been starving for two days.⁹⁰

On 15 April 2020, media reported that an Adivasi family with three children from Garhwa district of Jharkhand were struggling to survive the lockdown due to the failing Public Distribution Scheme and delayed pensions. Similarly, an investigation by *News18* found that many tribals in Jharkhand were struggling to get rations.⁹¹ A survey by the Right to Food Campaign (Jharkhand) conducted in the first week of April 2020 revealed "gaping holes" in the state government's relief measures in rural areas, like ration shops, *dal-bhat kendras* (rice-and-lentils centers), *anganwadis* (courtyard shelter, a rural child care centre), among others). The survey found specific cases of hunger or shortage of food in hamlets of marginalised people such as Particularly Vulnerable Tribal Groups (PVTGs) in 15 of the 50 blocks surveyed.⁹²

In Tamil Nadu, 243 out of 791 tribal families in the Anaimalai and Valparai hills were facing hunger as they do not have ration card to avail the benefits announced by the State government in view of the COVID-19 pandemic.⁹³ The Gondi tribals of Tamil Nadu

were also facing a situation of starvation following the announcement of the nationwide lockdown.⁹⁴

In Panna district of Madhya Pradesh, the Gond tribals were reportedly surviving only on roti (a flat, round bread) with salt.⁹⁵

In Assam, the closure of tea gardens due to the lockdown left thousands of Adivasis of the Tea-tribe community on the verge of hunger. Around 70,000 Adivasi tea workers in the Barak valley region were reported to be without rations and wages since 24 March 2020 and were struggling to arrange a meal for the family. A total of 104 tea gardens in the state where these communities worked have been closed since the lockdown.⁹⁶

In Arunachal Pradesh, majority of the Chakmas and Hajongs who are Indian citizens by birth as per the Indian Citizenship Act and descendants of the migrants from the Chittagong Hill Tracts of East Pakistan, current Bangladesh remain extremely vulnerable as assistance from the State for COVID-19 did not include them. On 12 April 2020, the State government announced the economic package for vulnerable sections during the COVID-19 pandemic to provide 5 kg rice and 1 kg pulses per head to beneficiaries under the PMGKAY. However, Chakmas and Hajongs were excluded from the scheme since their ration cards were illegally seized by the State government in 1991. It was reported that Chakmas and Hajongs were forced to buy rice at open market rate of Rs. 29 (0.4 USD) as they were not included under the economic package whereas families covered under the economic package get rice at Rs.5 (0.07 USD) a kg.⁹⁷ Pertinently, the Chakmas and Hajongs were excluded from socio-economic schemes such as those under the National Food Security Act, MGNREGA, Public Distribution System, Ayushman Bharat (health scheme) etc even prior to the COVID-19 pandemic.

The biometric system to authenticate the Aadhaar (identity card) number at banks has proved to be an obstacle for the tribals across the country as their fingerprints have faded due to years of toiling in the fields. As a result, many tribal families reportedly faced hurdles in withdrawing their wages under the MNREGA during the COVID-19. On 9 May 2020, the *Times of India* reported that even though the state government of Telangana had transferred the promised Rs 1,500 (20 USD) to the bank accounts, accessing the money by many tribals was difficult due to the biometric issue.⁹⁸

1.4. Lack of access to health care

Lack of basic health infrastructure, facilities and doctors and health workers is common in tribal areas. There is high prevalence of malnutrition and diseases such as malaria, leprosy, or tuberculosis. According to a report released in 2018 by the Expert Committee on Tribal Health, which was jointly constituted by the Ministry of Health and Family Welfare and the Ministry of Tribal Affairs,⁹⁹ the health care system in tribal areas is plagued by severe shortage of healthcare professionals, lack of information and awareness etc. The report revealed that about half of the States with tribal populations have 27-40% fewer health sub-centres, primary health centres and community health centres than are necessary.¹⁰⁰

There were also reports of the denial of access to health care in tribal areas during the lockdown. In April 2020, a video of a pregnant tribal woman in advance stage of pregnancy being carried in a *charpoy* (cot) converted into a sling in the state of Telangana went viral.¹⁰¹

On 6 May 2020, the National Commission for Women issued a notice to the Mizoram government over an order by a government hospital that made “voter ID mandatory for every woman delivering a child at the Tlabung Civil Hospital” in Lunglei district of Mizoram. The order dated 1 March 2020, issued by the Senior Medical Officer of community health centre at Tlabung, made voter-ID mandatory for accessing treatment which amounted to the Mizoram government allowing those not having voter IDs to be left untreated even if they have COVID-19.¹⁰²

1.5. Stigmatisation and social boycott

In the wake of COVID-19 outbreak, there has been massive and unprecedented upsurge of acts of racism and racial discrimination across the length and breadth of the country against the Indigenous Peoples, especially those who hail from the Northeastern region. Apart from being called “Corona”, “Chinese”, “Chinki”, glaring/staring/ogling while walking in the streets or shopping or sitting in public transport, India’s Mongoloid looking people were spat on and called “coronavirus”, forcibly quarantined despite showing no COVID-19 symptoms, denied entry into apartment complex or grocery stores, forced to leave apartment, threatened with eviction from their

apartment, forced to leave restaurant to make others comfortable, none wanting to share transport etc.¹⁰³

These incidents have taken place in upscale restaurants and campuses of prestigious institutions like Kirorimal College of Delhi University, Tata Institute of Social Sciences and the National Council of Educational Research and Training (NCERT), autonomous organisation of the government of India, which prepares school syllabus for students upto 12th Standards appearing for the Central Board of Secondary Education. The incidents had taken place across the length and breadth of the country such as Gujarat, Delhi, Tamil Nadu, Punjab, West Bengal and Maharashtra, showing that prejudices and acts of racism are not confined in particular areas.¹⁰⁴

On the night of 22 March 2020, a 25-year-old woman from Manipur was spat on called a ‘corona’ by a man in Mukherjee Nagar area of North-West Delhi.¹⁰⁵ On 23 March 2020, the housing society members tried to evict a group of women from Northeast India living in Ahmedabad, Gujarat on the ground that they were responsible for “bringing coronavirus in India”.¹⁰⁶ On 28 March 2020, two students from Nagaland were denied entry at a grocery store of a large retail chain in Mysuru, Karnataka on the ground that they were not Indians despite showing identification documents like Aadhaar cards.¹⁰⁷ On 9 April 2020, two youths from Manipur were denied entry to buy groceries at Starmarket Vanastalipuram in Hyderabad, Telangana for looking like foreigners, despite showing identification documents.¹⁰⁸ On 17 July 2020, Mumbai-based animal rights activist Hema Chowdhary was arrested from her residence in Mumbai by the Nagaland Police in connection with a “racist” video uploaded on social media by her on 4 July 2020.¹⁰⁹

There were also reports of tribal people being stigmatised or facing social boycott by their own community members due to fear of spreading the disease. In May 2020, a 32-year old tribal woman who delivered a baby in a quarantine centre in Odisha was not allowed to enter her home by villagers over fears that she may be carrying the COVID19 virus. After she had delivered the baby at the local primary health centre, the doctor advised her to be quarantined at her home. However, when the woman reached her home in Patharpada village in Oupada block of Odisha, the local residents did not allow her to enter the village.¹¹⁰

In Jharkhand’s West Singhbhum district, migrants belonging to tribal communities allegedly were not allowed to enter the villages in the month of May 2020.

A 22-years old tribal man who returned from Telangana alleged that he was taken to a quarantine centre in his village by the villagers who stated that he was carrying the virus. They even prevented his family members to meet him. Munda had no symptoms and had even offered to get himself tested. Yet the villagers did not relent after which the police took him to another quarantine centre.¹¹¹

Similarly, another tribal man, who came back from Uttar Pradesh to Dumka district, Jharkhand alleged that his family was socially ostracised since his return. The villagers accused the family members to be carriers of the virus and put barricades outside his house with a poster saying the house was infected with corona.¹¹²

1.6. Denial of burial and cremation

India reported a number of cases of denial of burials to those who died due to COVID-19. Similar incidents were also reported among tribal communities. In April 2020, the Madras High Court observed that the right to have a decent burial is a fundamental right under Article 21 of the Constitution.¹¹³

In Meghalaya, a tribal doctor who was Director of Bethany Hospital in Shillong and died due to COVID-19 on 15 April 2020 was denied a burial after permission for the deceased's burial was denied by a town body and a crematorium. Local residents of the area where the crematorium was located had also staged a protest against the burial.¹¹⁴ Acting on the incident, the Meghalaya High Court directed the authorities to take legal action against anyone obstructing the cremation or burial of COVID-19 victims in the state.¹¹⁵

On 30 June 2020, the family members of a tribal woman, W/o Mahesh Col, who died due to illness (disease unknown) stated that they had to throw her body into a river in Madhya Pradesh's Sidhi district as they did not have the money to cremate her. The video clip of the family carrying the body in a cart and then throwing the body into the Son River in the district, 672 kilometres northeast of state capital of Bhopal, went viral on social media on 29 June. After the tribal woman died in the district hospital, the hospital did not provide an ambulance and the municipal corporation also refused to provide an ambulance. Hence, the family members were forced to take the body on handcart and floated it in the Son River. DP Barman, Sidhi's additional district magistrate, confirmed the "unfortunate incident".¹¹⁶

1.7. Impact on livelihood

The COVID19 pandemic and the consequent nationwide lockdown led to massive unemployment and reverse migration in the tribal communities, which has had a severe impact on the livelihood of the tribal communities. The period between March to June is the peak season for collecting and selling Non Timber Forest Products (NTFP), or Minor Forest Produce (MFP), which according to the Forest Rights Act, 2006 include "all non-timber forest produce of plant origin including bamboo, brush wood, stumps, cane, *tussar* silk, cocoons, honey, wax, lac, tendu or *kendu* leaves,¹¹⁷ medicinal plants and herbs, roots, tubers and the like".¹¹⁸

According to the Ministry of Tribal Affairs, MFP are a major source of livelihood for tribals living in forest areas and around 100 million forest dwellers depend on MFPs for food, shelter, medicines and cash income. It provides them critical subsistence during the lean seasons, particularly for tribal groups such as hunter gatherers, and the landless. Tribals derive 20-40% of their annual income from MFP. The MFP sector has the potential to create about 10 million workdays annually in the country.¹¹⁹

Almost 60% of the annual collection of MFP takes place during April-June. As the peak harvest season of MFP coincided with the lockdown period, the Indigenous Peoples struggled to sustain their forest-based livelihood.¹²⁰ As the state governments also closed the *haats* (local markets) to avoid crowding, tribals were unable to sell their forest produce.¹²¹

After the lockdown came into effect, experts have repeatedly pointed out the need for a COVID-19 response team for tribal districts to ensure the protection of livelihood of the tribal communities.¹²² On 30 March 2020, the Tribal Cooperative Marketing Development Federation of India (TRIFED) sent a proposal to the Ministry of Tribal Affairs to declare the *Van Dhan* centres (established for providing skill upgradation for tribal communities) as procurement centres for MFP.¹²³ However, the proposal had not been acted upon. In Odisha, 90% of women from Adivasi and forest dwelling communities depend on the collection of MFP for their livelihood,¹²⁴ but it was reported that Adivasi women who led MFP cooperatives and collectives were unable to sell their produce because they neither had access to local markets nor could the traders procure them from their villages. This led to a distress sale at often much lower prices to the local traders.¹²⁵

1.8 Conditions of Particularly Vulnerable Tribal Groups, pastoral and nomadic communities

The Union Ministry of Home Affairs has categorised 75 Indigenous Peoples' groups as Particularly Vulnerable Tribal Groups (PVTGs). They are located in 18 States and the Union Territory of Andaman & Nicobar Islands.¹²⁶ According to experts, the PVTGs are the most vulnerable groups within the tribal communities amid the pandemic crisis.¹²⁷

In Odisha, which has the highest number of PVTGs, the Dongria Kondhs, most of whom reside in the Niyam-giri hills spread across Rayagada and Kalahandi districts, were struggling to sustain their livelihood after the lockdown abruptly closed their traditional market-places.¹²⁸ In June 2020, the Dongria Kondh tribes stated that the state government of Odisha did not provide support to the local community to earn a livelihood.¹²⁹

Pertinently, the PVTGs reside in remote geographical locations with poor administration and infrastructure. Over the years, they have become more vulnerable due to the loss of their customary rights for cultivation and the use of forests for their livelihood, leading to hunger, starvation, malnutrition. The provisions for recognition and protection of the habitat rights of PVTGs under the FRA have not been implemented. The lockdown measures have added further challenges to their struggle for survival. There were reports of PVTGs not being able to access forests for meeting subsistence needs and they do not have access to other livelihood activities.¹³⁰

In the midst of the national lockdown to contain COVID-19, on 6 April 2020, the MoEFCC issued an advisory instructing to all States and Union Territories to ensure reduction in human-wildlife contacts through imposition of restriction of movement of people into protected areas such as National Parks, Wildlife Sanctuaries or Tiger Reserves. The advisory adversely impacted about three to four million people living in and around protected areas, most of whom are tribal communities including PVTGs, nomadic and pastoralist communities, fishing communities, among others. These communities are most dependent on the natural resources within and around protected areas for their livelihoods.¹³¹ Therefore, the advisory had severely impacted the migratory patterns and livelihood generating capacities of these communities during the time of pandemic.¹³²

The advisory is in violation of the Forest Rights Act and susceptible to misuse to further alienate and restrict access of these communities to the natural resources that they are dependent on for their lives and livelihoods. These communities further face risk of violence at the hands of forest department officials. For example, in Kinwattaluka of Nanded district in Maharashtra, an elderly man from the Kolam PVTG was allegedly beaten by the forest department officials for going into the forest to collect bamboo during the lockdown.¹³³

1.9. Eviction of Indigenous Peoples

While the country has been reeling under the unprecedented health and economic crisis due to COVID-19 and food, shelter and healthcare have become the top priority for the people, the authorities made the life of Indigenous Peoples even more miserable by carrying out eviction drives against them, as the cases included here demonstrate.

Case 1: Burning of huts by forest officials in Dang district, Gujarat

On 6 April 2020, forest department officials allegedly torched the huts of tribals in Dang district, Gujarat. The forest officials reportedly reached Kamat village - home to Konkani, Bhil and Warli tribal communities, at around 10 am on 6 April and gave an oral warning to six tribal villagers to vacate their land or face consequences. The people in the village had lived and cultivated land in the area for three generations.¹³⁴ Out of 51 individual forest rights claims filed in 2007 under the Forest Rights Act, all claims except three were rejected by the District-level Committee even though they had fulfilled all requirements, including the submission of Aadhaar cards and ration cards along with oral testimonies of village authorities. The forest officials claimed that the tribals were staying illegal in the village.¹³⁵

Case 2: Eviction notice to 90 tribal families in Sikkim

On 7 April 2020, 90 tribal families of Dzuluk settlement in East Sikkim were served an eviction notice by the office of the Divisional Forest Officer requiring them to vacate the area within 15 days. The eviction notice stated that residents were illegally occupying a forest area. However, the residents claimed that they have been residing there since 1960 and the Government had even established Panchayats and schools.¹³⁶

Case 3: Eviction of 32 tribal families in Kalahandi district of Odisha

On 24 April 2020, the forest department demolished homes of 32 Adivasi families living at Sagada village in the Khandualmali forest area in Kalahandi district of Odisha. Due to the eviction, more than 90 tribals with their children were forced to live under the scorching sun and had nothing to eat during the lockdown period. Reportedly, the displaced tribals lived under *mahua* trees (*Madhuca longifolia*) and survived on *mahua* leaves. This village is adjacent to the Khandul Mali forest area and there are numerous bauxite mines in this region of South Odisha.¹³⁷

According to Prafull Samanta, who heads the Lokshakti Abhiyan, an organization that has long been fighting for the rights of Adivasis in Odisha, the attempt to remove these tribals has been going on for six months but the forest department chose to demolish their houses during the COVID19 lockdown. Narendra Mohanty, the state convener of the Indian Social Action Forum (Odisha) said, *"The forest department has done this because of the pressure from the mining mafia. Big companies are on the lookout for mining opportunities in the region. Everybody wants to loot the bauxite away from the tribal land."* Siddhartha Naik, a lawyer in the Kalahandi District Court, alleged that the administration, along with some big companies, was conspiring to reduce the area of the elephant sanctuary by increasing the mining area of the nearby Vedanta's bauxite mining project.¹³⁸

Case 4: Eviction of 80 Koya tribal families in Telangana

In June 2020, 80 Koya tribal families of Satyaranarayana of Ganugapadu in Bhadrachalam district of Telangana were evicted from their fields to give way for a plantation. The evicted tribals alleged that their fields, around 200 acres, have been taken over for a plantation, threatening their livelihood. The families have been cultivating pulses, millets and cotton. Reportedly, their claims under the Forest Rights Act (FRA) were still pending and therefore the eviction was illegal under the FRA.¹³⁹

1.10. Right to education

While addressing the nation from the Red Fort in the capital Delhi on the occasion of 74th Independence Day on 15 August 2020, Prime Minister Narendra Modi stated, *"Online classes have become a culture dur-*

*ing the Corona times... digital transaction and online classes, all of it is the new norm now. This goes on to show how the Indian people have started accepting the new normal."*¹⁴⁰ However, the Prime Minister failed to offer any solution to the problems being faced by the Indigenous Peoples, the Dalits and the poorest of the poor who are not able to access online classes due to numerous factors such as lack of internet, lack of smartphone or laptops, electricity, etc. According to the 2017-18 National Sample Survey report on education, only 24% of Indian households have an internet facility. While 66% of India's population lives in villages, only a little over 15% of rural households have access to internet services.¹⁴¹

Online education may have become the "new normal" in COVID-19 times, but the lack of a policy addressing the needs of Indigenous Peoples has left them live in neglect and deprivation. The literacy rate of tribals was only about 59% in 2011, much below the national average of 73%.¹⁴² The introduction of online classes may further perpetuate inequalities.

In June 2020, a team from the Karnataka State Commission for Protection of Child Rights (KSCPCR) visited a few tribal hamlets in Mysuru and Kodagu districts and found that the students, unlike their urban counterparts, lack accessibility to not just smartphones and computers, but basic necessities like power supply.¹⁴³ This is the scenario of the tribal students across the country from Gujarat in the West to Arunachal Pradesh in the East, from Ladakh in the North to Kanniyakumari in the South.

The students organisations in Arunachal Pradesh¹⁴⁴ and Nagaland¹⁴⁵ demanded improvement in the quality of internet and mobile network in their states after several grievances were received from distraught students, aggrieved parents and concerned citizens because of the inability to attend online classes because of poor network connectivity. Meghalaya Minister of Education Lakmen Rymbui admitted that online classes during the ongoing lockdown are creating a "digital divide".¹⁴⁶ In Mizoram, online classes are yet to start due to the same reasons.

On 8 June 2020, in a meeting called by the Human Resource Development (HRD) to discuss the way forward for learning amid the Covid-19 outbreak, several state governments flagged concerns over the digital divide in education. States such as Rajasthan, Jharkhand and Arunachal Pradesh spoke on the difficulty of conducting classes online, with many stu-

dents not owning a digital device and many households lacking access to internet connection.¹⁴⁷ Yet, the Centre and state governments are bereft of any policy on this.

COVID-19 has also resulted in budget cuts for tribal education as a result of which several educational schemes for tribal students will be deferred or suspended by governments due to financial constraints. For instance, in the state of Maharashtra, the Tribal

Development Department's ambitious scheme of admitting selected tribal students to renowned schools across the State from Class I and II in the coming academic year was deferred due to financial constraints in the wake of the COVID-19 pandemic.¹⁴⁸ On 1 June 2020, the state's Tribal Development Minister K.C. Padvi confirmed that the scheme was suspended for the year due to cuts announced for the ongoing fiscal year.¹⁴⁹

Community life, Saranda Forest, Jharkhand.
CREDIT: Signe Leth





Indigenous women fighting to protect their ancestral land.
CREDIT: Signe Leth

Chapter 2

Indigenous Peoples bear the brunt
of India's COVID-19 recovery plans

The entire planet has been brought to standstill by the COVID-19 pandemic. India abruptly declared a nation-wide lockdown effective from 25 March 2020 and international media reports on the sufferings of millions of migrant workers, including Indigenous Peoples, shook the world. Instead of addressing the primary concerns of the people regarding food, health, shelter and livelihood during the lockdown, the Government of India took a number of measures with far-reaching consequences for the environment and the well-being of people, disproportionately impacting the Indigenous Peoples of the country. Among these measures is the government's recovery plan for the COVID-19 pandemic.

2.1. Draft EIA Notification 2020 in the midst of COVID-19 lockdown

India imposed the COVID-19 lockdown from midnight of 24 March 2020 with four hours notice, causing panic all around. In the midst of the complete lockdown, on 11 April 2020, the Ministry of Environment, Forests and Climate Change (MoEFCC) released the Draft Environment Impact Assessment Notification 2020 (Draft EIA 2020) to replace the existing EIA Notification of 2006 inviting comments to be given within 60 days.¹⁵⁰ On 8 May 2020, the Central Government extended the deadline for a further period of 60 days, but there was ambiguity as it was stated that the window for submission of objections or suggestions would close on 30 June 2020,¹⁵¹ instead of 7 July.

The issue of "woefully inadequate" time given by the Government in the midst of COVID-19 lockdown restrictions, which included postal services, and the ambiguity in the order of 8 May 2020 were raised in a Public Interest Litigation (PIL) filed before the Delhi High Court (HC). On 30 June 2020, the Delhi HC, while lamenting that the Centre did not address the ambiguity regarding the deadline in its reply, extended the time period for submission of comments and suggestions on the Draft EIA 2020 till 11 August 2020.¹⁵²

A PIL against the Draft EIA 2020 was also filed before the Karnataka HC, which in an order passed on 5 August 2020 restrained the Central Government from publishing the Final Notification based on the Draft EIA 2020 till 7 September 2020. A division bench of Chief Justice Abhay Oka and Justice Ashok S. Kinnagi took note of the fact that the draft notification was actually dated 23 March 2020, but was published on

the website of the government only on 11 April 2020, and that during the lockdown there were several constraints on individuals for filing objections and comments to the draft notification. The bench held that "Prima facie it appears to us that the Right of Citizens to file objection has been taken away." The bench further stated, "As far as the State of Karnataka is concerned the lockdown continued till May. In June relaxation was granted. However, in July limited period lockdown was introduced."¹⁵³

The Central Government has also restricted the participation of the public by refusing to publish the draft notification in any language other than Hindi and English. On 30 June 2020, the Delhi HC, while hearing the petition, gave the Centre 10 days to print the Draft EIA 2020 in 22 languages mentioned in the Eighth Schedule of the Constitution.¹⁵⁴ However, the Central Government refused to comply and on 11 August 2020 the Delhi HC issued a notice in a contempt petition moved by petitioner Vikrant Tongad.¹⁵⁵ On 13 August, the Supreme Court dismissed the Centre's petition challenging the Delhi HC order to print the Draft EIA 2020 notification in 22 languages¹⁵⁶ but stayed the contempt proceedings against the Centre.¹⁵⁷ Earlier, on 5 August 2020, the Central government told the Karnataka HC that it did not have any obligation under Article 343 of the Constitution and provisions of the Official Languages Act 1963 to give publicity to the draft notification in regional languages which led the court to remark, "The approach of the respondents (Central Government) suggests that perhaps those who don't understand Hindi and English language need not file comments or objections to the notification."¹⁵⁸

The Draft EIA 2020 has met with massive opposition. Despite the lockdown, the MoEFCC has received nearly 17,00,000 (1.7 million) objections and suggestions till 11 August 2020,¹⁵⁹ which proves how critical the matter is for the public.

While the Draft EIA 2020 has been criticised for attempting to dilute environmental norms and contribute to rapid climate change for the sake of easing business, it has also serious consequences for India's Indigenous Peoples as it seeks to dilute or override the powers of the Gram Sabha guaranteed under the Panchayats (Extension to the Scheduled Areas) Act, 1996 (PESA) and the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 (Forest Rights Act). Under Section 4 of the PESA, the Gram Sabha is the competent au-

thority to safeguard and preserve the traditions and customs of the people, their cultural identity and community resources; and it shall be mandatorily consulted before making any acquisition of land in the Scheduled Areas for development projects and before resettling or rehabilitating persons affected by such projects, and to prevent alienation of land. Section 5 of the Forest Rights Act, 2006, among others, bestows the power upon the Gram Sabhas to “*protect the wildlife, forest and biodiversity*”, and “*ensure that the habitat of forest dwelling Scheduled Tribes and other traditional forest dwellers is preserved from any form of destructive practices affecting their cultural and natural heritage*” and “*ensure that the decisions taken in the Gram Sabha to regulate access to community forest resources and stop any activity which adversely affects the wild animals, forest and the biodiversity are complied with.*”

The Draft EIA 2020 is illegal as an executive fiat cannot override the statutory provisions such as the PESA and the Forest Rights Act.

The Supreme Court in its judgment dated 18.04.2013 in W.P.(C) No.180/2011 in the case of Orissa Mining Corporation versus Ministry of Environment & Forest & Others upheld the supremacy of the Gram Sabhas.¹⁶⁰ Furthermore, the Ministry of Environment and Forests itself vide letter dated 03.08.2009 had informed all State Governments that “*a letter from the State Government certifying that proposals for such diversion (with full details of project and its implications, in vernacular / local languages) have been placed before each concerned Gram Sabha of forest-dwellers, who are eligible under the FRA*” while diverting forest land for non-forest purposes under the Forest (Conservation) Act, 1980.¹⁶¹ The Forest Conservation (Rules), 2017 provide that the District Collector shall (i) complete the process of recognition and vesting of forest rights in accordance with the FRA, 2006 for the entire forest land indicated in the proposal and then (ii) “*obtain consent of each Gram Sabha having jurisdiction over the whole or a part of the forest land indicated in the proposal for the diversion of such forest land and compensatory and ameliorative measures, if any, having understood the purposes and details of diversion, wherever required*”.¹⁶²

The Draft EIA 2020 seeks to dilute the existing EIA Notification of 2006 in many ways. The existing EIA Notification 2006 has broadly divided the projects or activities into two categories namely ‘A’ and ‘B’; and further ‘B’ projects are sub-divided into ‘B1’ (projects

requiring EIA) and ‘B2’ (projects not requiring EIA). While Category ‘A’ shall require prior-EC from the Ministry of Environment, Forests and Climate Change (MoEFCC) on the recommendation of the Expert Appraisal Committee (EAC), Category ‘B’ will require prior-EC from the State Environment Impact Assessment Authority (SEIAA) on the recommendation of State Expert Appraisal Committee (SEAC).

The Draft EIA 2020 divided the projects into three categories i.e. ‘A’, ‘B1’, and ‘B2’; and further sub-divided ‘B2’ projects into those required to be placed before Appraisal Committee and those not required to be placed before the Appraisal Committee. The Category ‘B2’ projects that are not required to be placed before Appraisal Committee shall not require Prior-Environmental Clearance but merely a Prior-Environment Permission (Prior-EP) from the Regulatory Authority, i.e. the State Level Environment Impact Assessment Authority or Union Territory Level Environment Impact Assessment Authority as the case may be.

The existing EIA 2006 provides for a process consisting of four stages for granting Prior-EC, i.e. Stage (1) Screening (Only for Category ‘B’ projects), Stage (2) Scoping (not applicable for ‘B2’ projects as they do not require EIA), Stage (3) Public Consultation and Stage (4) Appraisal. While Screening (stage 1) and Scoping (stage 2) are not applicable to all projects, all projects irrespective of their categorizations need to undergo Stage 3 (public consultation) and Stage 4 (Appraisal).

On the other hand, the Draft EIA 2020 provides for six stages namely Stage 1: Scoping; Stage 2: Preparation of Draft EIA Report; Stage 3: Public Consultation; Stage 4: Preparation of Final EIA, Stage 5: Appraisal; and Stage 6: Grant or Rejection of Prior Environment Clearance **but all these six stages are applicable for Category ‘A’ and Category ‘B1’ only.** The process for granting Prior-Environmental Clearance (Prior-EC) to Category ‘B2’ projects that are required to be placed before Appraisal Committee will comprise of three stages namely Stage 1: Preparation of Environment Management Plan (EMP) Report; Stage 2: Appraisal; and Stage 3: Grant or Rejection of Prior Environment Clearance. **They won’t require scoping, EIA and public consultation.** Worst, the projects under Category ‘B2’ that are not required to be placed before Appraisal Committee are exempted from scoping, EIA, public consultation and appraisal. All such projects will require to do is preparation of EMP Report by the project

proponent (Stage 1) and verification of completeness of the application by the Regulatory Authority (Stage 2) before granting or rejection of the prior Environmental Permission. The prior-EP should be issued through online mode within 15 days from the date of application and in case of rejection of the application shall inform reasons for the same as per Clause 15(3) of the Draft EIA 2020. Thus, the Draft EIA 2020 seeks to doing away with Prior-Environmental Clearance for a number of projects and give license to projects with impunity which shall have the potential to adversely affect the environment as well as the Indigenous Peoples of India.

Further, the exemption given to public consultation to all projects under Category B2 under the Draft EIA 2020 will effectively rob the Indigenous Peoples of their right to be consulted/consented before any project can start in their areas which is guaranteed under the Panchayats (Extension to the Scheduled Areas) Act, 1996 (PESA), the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 and judgments of the Supreme Court particularly in its judgement dated 18.04.2013 in W.P.(C) No.180/2011 *Orissa Mining Corporation Versus Ministry of Environment & Forest & Others* which upheld the supremacy of the Gram Sabha in matters of deciding whether to give its consent or not to any project.

2.2. COVID-19 recovery plan and the auction of coal mines

On May 12, 2020, Prime Minister Mahendra Modi announced the launch of the *Aatma Nirbhar Bharat Abhiyan* (Self-reliant India Campaign) as a recovery package to help the country recuperate from the fall-out of the COVID-19 pandemic. As part of this *Aatma Nirbhar Bharat Abhiyan*, on 18 June 2020, Prime Minister Narendra Modi launched the online auction of 41 coal blocks for commercial mining under the theme "*Unleashing Coal: New hopes for Atma Nirbhar Bharat*".¹⁶³ Speaking on the occasion via video conference, PM Modi talked of "freeing the coal sector from decades of lockdown" by fully opening the coal sector to private players,¹⁶⁴ and he compared coals with "diamonds".¹⁶⁵ According to the Ministry of Coal, "*The coal mines auction process will lay strong foundation for energy security in the country by producing additional coal providing large scale employment and huge opportunities for investment in coal sec-*

tor. These efforts will supplement the 01 billion tonne coal production likely from Coal India in FY 23-24 and meet full requirement of domestic thermal coal."¹⁶⁶

Of the 41 coal blocks, 11 are in Madhya Pradesh, nine in Jharkhand, nine in Odisha, nine in Chhattisgarh and three in Maharashtra.¹⁶⁷ Most of these coal mines are located in dense protected forests rich in bio-diversity that are inhabited by tribals..

Brief descriptions of the 41 coal mines up for auction are available on the website of MSTC Limited, which is a public sector undertaking under the administrative control of the Ministry of Steel, Government of India.¹⁶⁸ An analysis of these descriptions found that out of 41 coal blocks, five do not have any forest area and hence, do not require Forest Clearance under the Forest (Conservation) Act of 1980. Out of the remaining 36 coal blocks, only four have obtained the Forest Clearance while two others were approved in principle (stage 1). In India, Forest Clearance is given in two stages: in Stage 1, the proposal shall be agreed to in principle with conditions relating to transfer, mutation and compensatory afforestation, and in Stage 2, after receipt of compliance report from the State Government in respect of the stipulated conditions, the final approval under the Forest (Conservation) Act of 1980 is given. A staggering 30 coal blocks (73%) do not have the mandatory Forest Clearance. Section 2 of the Forest (Conservation) Act of 1980 prohibits the use of forests for non-forest activities without Forest Clearance.¹⁶⁹ Further, out of the 41 coal blocks, 37 coal blocks (over 90%) do not have the mandatory Environmental Clearance required under the EIA Notification 2006.

It is surprising that the Prime Minister of India allowed the auction of these coal blocks, most of which are illegal since they do not have the necessary clearances for starting operation.

On 19 June 2020, the opposition-ruled Jharkhand government filed a writ petition in the Supreme Court challenging the auction of coal mines. Among others, the petition argued that tribals would be devastated by commercial exploitation of coal mines and the Union Government failed to do a fair assessment of adverse social and environmental impacts on the large tribal population and vast tracts of forest land in these areas.¹⁷⁰ On 6 July, the SC refused to interfere with the Centre's decision to auction Jharkhand coal blocks for commercial mining¹⁷¹ but issued notice seeking the response from the Centre on 14 July.¹⁷²

The governments of two more opposition-ruled states, i.e. Chhattisgarh and Maharashtra, have written to the Union Environment Minister opposing the auction.¹⁷³

On 19 June 2020, Jairam Ramesh, former Environment Minister and Chairman of the Parliament Standing Committee on Environment, Forests & Climate Change stated that opening up coal blocks in dense forests would be a “triple disaster”: mining and transportation of coal would involve a heavy environmental costs; the loss of very dense forest cover would be the loss of a valuable carbon sink; and public health would be severely affected. He accused the current government of violating the “go” and “no go” classification of coal blocks made jointly by the Ministry of Environment and Forests and Coal India in 2009-10. Nine major coalfields had been studied and about 70% of the coal blocks fell under “go” areas, which could be considered for mining subject to approval. But 30% were in “no go” areas, which under no circumstances whatsoever can be considered for mining.¹⁷⁴

The coal mines opened up for commercial mining are mostly located in the dense forests and areas inhabited by Indigenous Peoples whose livelihoods are dependent on the forests and forest resources. The new coal policy of the present dispensation will undoubtedly allow more evictions and oppressions of Indigenous Peoples.

The Hasdeo Arand is one of the largest contiguous stretches of dense forest in central India, covering about 170,000 hectares (420,080 acres) in the state of Chhattisgarh. It is called “the lungs of Chhattisgarh” and is rich in biodiversity, containing many threatened species, like elephants, leopards and sloth bears.¹⁷⁵ It is also home to the Gond Indigenous Peoples.¹⁷⁶ The coal mining projects in Hasdeo Arand forest have been at the centre stage of protests by the Indigenous Peoples for the last several years. These areas were off-limit to mining but in 2011 the Central government granted a mining permission for the first coal blocks in Hasdeo Arand. By 2013, the Parsa East and Kante Basan open cast mine operated by the Adani Group started production and it currently produces about 15m tons of coal per annum.¹⁷⁷

On 15 June 2020, Sarpanchs (village heads) of nine villages in the Hasdeo Arand region of Chhattisgarh wrote to Prime Minister Modi opposing the auction of coal mines and called upon the Prime Minister to pre-

vent commercial mining in Hasdeo Arand region. The Sarpanchs stated that villagers had already established self-reliant lives and livelihoods, which would come under attack due to the auction. The letter added, *“It is unfortunate that when the communities are already grappling with the COVID-19 crisis, they are faced with this uncertainty and threat of displacement.”*¹⁷⁸ The letter made it clear that a total of 20 Gram Sabhas of the region have been regularly passing resolutions against mining and the auction or allotment of coal blocks in the region since the last five years and even opposed the first phase of auctions in 2015. Under the provisions of the PESA and the Forest Rights Act, the consent of the Gram Sabhas is needed before mining can start.¹⁷⁹

However, the Government of India did not pay any heed and approved at least three mining blocks falling under the Hasdeo Arand coalfield in the auction announced on 18 June 2020. These are (i) Madanpur North coal block in Korba district of Chhattisgarh, which has a total area of 21 sq km, of which 19 sq km is a forest area; (ii) Morga II which has an area of 26.64 sq km, of which 85% is forest land; and (iii) Morga South coal block has an area of 21.92 sq.km, of which almost the entire area is forest land. All these three coal blocks have neither Forest Clearance nor Environmental Clearance.¹⁸⁰ According to Bipasha Paul, programme officer for the Chhattisgarh-based NGO Janabhivayakti, which is working with the Hasdeo Arand residents, around 80% of the forest area under these three above-mentioned coal blocks and 30 villages may be lost due to the fresh approval of mining.¹⁸¹

As per the “Updated Schedule of the Tender Process - Auction of Coal mines for Sale of Coal”, dated 08.08.2020, the auction shall take place on 11 September 2020.¹⁸²

2.3. Coal mining in Dehing Patkai

Even before the announcement of the coal mining auction by the Prime Minister, there were indications that the Indian government is determined to ignore the global call by climate scientists for phasing out the burning of fossil fuel, in particular coal. On 24 April 2020, in the midst of the complete national COVID19 lockdown, the National Board for Wildlife under the MoEFCC approved coal mining by the North-Eastern Coalfields (NECF), a unit of the government-run Coal India Ltd (CIL), inside Dehing Patkai Elephant Reserve

in Assam.¹⁸³ Spread over 937 square kilometres, Dehing Patkai Elephant Reserve falls in Upper Assam's Tinsukia and Dibrugarh districts and is located within the periphery of the Dehing Patkai Wildlife Sanctuary, which is said to be the largest lowland tropical rainforest in India.¹⁸⁴ There are more than a dozen different ethnic groups living in coexistence with the forest and using its resources. These ethnic groups including Indigenous Khamti, Singpho, Nocte, Ahom, Kaibarta, Moran and Motok, and Tea-tribes,^v all of whom will be adversely affected by the coal mining.¹⁸⁵

The approved proposal calls for the diversion of 98.59 ha of forest land in the Saleki proposed reserve forest area, a part of the larger elephant reserve.¹⁸⁶ This 98.59 ha included land which NECF had mined illegally for several years, according to a site inspection report by the Shillong regional office of the MoEFCC submitted to the MoEFCC on 25 November 2019. It said that the NECF obtained a 30-year mining lease which expired in 2003, but that it applied for a renewal only in 2012, all these years continuing mining operations illegally. On 6 May 2020, the Assam forest department imposed a penalty of Rs 43.25 crore (423.5 million Rupees, about 5.7 million USD) on CIL for carrying out "illegal mining" inside the forests of the Dehing Patkai Elephant Reserve between 2003 and 2019. Hence, the approval granted by the NBWL for coal mining in Dehing Patkai elephant reserve is surprising.¹⁸⁷

The people of Assam launched both street protests and online protests against the NBWL's decision under the banner of "Save Dehing Patkai" and "Save Amazon of East". In the face of popular protests, Assam Chief Minister Sarbananda Sonowal expressed his government's commitment to save the environment and biodiversity¹⁸⁸ and CIL temporarily suspended all mining operations in the North Eastern Coalfields, Margherita with effect from 3 June 2020.¹⁸⁹

On 4 June 2020, the Guwahati High Court took *suo motu*, on its own motion, cognisance against coal

mining inside Dehing Patkai and issued notices to the Centre, State government, CIL and other stakeholders. On 3 July 2020, the NBWL ordered CIL to stop all mining activities inside the Dehing Patkai forest. On 18 July 2020, the Assam government ordered an inquiry by a retired justice of Gauhati High Court, Brajendra Prasad Kataki, into allegations of coal mining in Dehing Patkai Wildlife Sanctuary since 2003.¹⁹⁰

2.4. Etalin Hydro Electric Project in Dibang valley, Arunachal Pradesh

Amidst the ongoing COVID-19 lockdown, on 18 July 2020, the Cabinet Committee on Economic Affairs (CCEA), chaired by Prime Minister Narendra Modi, gave the go-ahead to the Etalin Hydro Electric Project (EHEP) on the Dibang river near the Munli village in Lower Dibang Valley district of Arunachal Pradesh. The CCEA approved Rs 1,600 crore (16 billion Rupees, about 215 million USD) as pre-investment expenditure for the project. Union Forests and Environment Minister Prakash Javdekar, briefing reporters in New Delhi on 18 July about the CCEA decision, said that the amount would be spent to pay compensation to the displaced persons, compensatory afforestation and construction of roads and bridges to access the project site.¹⁹¹ Although the Environmental Clearance was given in 2015, the approval for Forest Clearance is still pending before the Forest Advisory Committee under the MoEFCC.^{vi}

On 25 June 2020, the MoEFFC (Forest Conservation Division) stated that the Ministry received various representations regarding concerns over the implementation of the project on forest land, requesting the rejection of the EHEP and asking the state government of Arunachal Pradesh to "*examine the representations thoroughly and take concrete action in the matter*".¹⁹²

The most recent consideration of the issue by the FAC was held on 23 April 2020 when the FAC stated:

v. Tea-tribes is the official designation of the government of Assam for the descendants of Adivasi from Central and Eastern India who were brought to Assam by the British to work in tea plantations. Most of the currently estimated over 6 million members of the Tea-tribes still work in tea plantations. Unlike in their places of origin, they do not have Scheduled Tribes status in Assam, but are recognised as belonging to Other Backward Classes. ('Delhi And Dispur Cheated Us': Do Rights Of Assam's Adivasi Communities Not Matter? Youth Ki Awaz, 29 October 2019, <https://www.youthkiawaz.com/10/2019/do-rights-of-assams-ativasi-communities-not-matter/>)

vi. Two separate clearances are required: environmental clearance under the EIA notification 2015 and Forest clearance under the Forest Conservation Act. It received Environmental Clearance (required under Environmental Impact Assessment Notification of 2016) in 2015 which is different from Forest Clearance which is required under Forest Conservation Act of 1860.

*"The proposed project falls under the richest bio-geographical province of the Himalayan zone and falls under one of the mega bio-diversity hotspots of the world. The proposed project location falls at the junction of the Palaearctic, Indo-Chinese, and Indo-Malayan bio-geographic regions having luxuriant forests and plethora of flora and fauna. About 6 Globally Threatened mammal species are found in this region of which 3 are endangered and 3 are under vulnerable category. About 680 bird species have been recorded from this region which is about 56% of total bird species of India. Among them 19 are Globally Threatened and 10 Near Threatened. It has 4 Critically Endangered, 2 endangered and 13 vulnerable species. This makes this area a very important place in terms of conservation of globally threatened bird species. It also has 3 very rare restricted range endemic bird species. This entire region falls under IUCN management categories III, Endemic Bird Area, Global Biodiversity Hotspot and Key Biodiversity Area indicating its importance at global scale."*¹⁹³

Hence, the FAC, on 23.4.2020, sought clarifications from the nodal Ministry, i.e. the Ministry of Power on a number of things regarding the viability of the project in the current form. The FAC also asked the impact assessment division of the MoEFCC to check if the environmental impact of the project has been assessed and sought inputs from the National Tiger Conservation Authority on this.¹⁹⁴

The factsheet of the FAC dated 21 April 2020 stated that *"The land in which the project is proposed is in pristine forests with riverine growth that once cut cannot be replaced."*¹⁹⁵ The project will need to di-

vert 1165.66 ha of forest land, felling of over 2.8 lakh (28000 million) trees and destroy rare flora and fauna.¹⁹⁶

With a capacity to generate 3097 megawatts of electricity,¹⁹⁷ the EHEP is going to be one of India's largest hydropower ventures, and when completed it would reach the elevation of a staggering 278 metres, hence making it the world's tallest concrete gravity dam.¹⁹⁸

The State Government of Arunachal Pradesh vide their letter No. FOR.279/CONS/2010/10012-18 dated 27.10.2014 had submitted a revised proposal seeking prior approval of the Central Government under Section-2 of the Forest (Conservation) Act, 1980 for construction of the Etalin Hydro Electric Project in Dibang Valley District.¹⁹⁹ It received Environmental Clearance from the Union Environment Ministry on 19 May 2015.²⁰⁰ Arunachal Pradesh falls in the category 'Zone V' (maximum risk) in the mapping of seismic zones in India. The South Asia Network on Dams, Rivers and People (SANDRP) had written to the Expert Appraisal Committee (EAC) detailing geological and seismic risks and threat to biodiversity in 2015 when appraisals to grant Environmental Clearance to the project were taking place but those concerns were not taken into account by the EAC.²⁰¹

The factsheet of the MoEFCC dated 23 February 2017 stated that 265 tribal families shall be affected and another 95 tribal families shall be displaced by the project.²⁰² According to Gikko Linggi, the president of Idu Mishmi Cultural and Literary Society, the project would directly affect at least 2,000 of Idu Mishmi people.^{203, 204} If put in the context that the entire Idu Mishmi population in Arunachal Pradesh as per the Census 2011 is 32,219, the impacts on the Idu Mishmi people are alarming.²⁰⁵



Indigenous art, Jharkhand. CREDIT: Signe Leth

Chapter 3

Lack of COVID-19 response plan for
Indigenous Peoples

Indigenous Peoples are among the most vulnerable to the COVID-19 pandemic across the world. The International Labour Organization (ILO) in its policy brief dated May 2020 stated,

“The COVID-19 pandemic and its social and economic consequences are dramatically altering the trajectory towards achieving the Sustainable Development Goals (SDGs), including for the world’s over 476 million Indigenous and tribal peoples. A combination of century-old marginalization and a set of distinct socio-economic, health and environmental vulnerabilities in the COVID-19 context, expose Indigenous and tribal peoples to particularly severe impacts of the current crisis.”²⁰⁶

Regarding the situation of the Indigenous Peoples during the COVID19, the UN Secretary General stated:

“The already-critical situation for many Indigenous Peoples, who face entrenched inequalities, stigmatization and discrimination, including poor access to health care and other essential services, is exacerbated by the pandemic. It presents particular existential and cultural threats to Indigenous people, and Indigenous elders and Indigenous Peoples in voluntary isolation are especially vulnerable.”²⁰⁷

The same holds true for India’s Indigenous Peoples. Yet, while the Indian government is dragging its feet in coming up with a response to the crisis faced by Indigenous Peoples, many countries have developed policies and programmes to protect and assist the

Indigenous Peoples to overcome the pandemic,

Like in India, Indigenous Peoples in other countries are amongst the most vulnerable to the COVID-19 pandemic due to centuries of systematic discrimination, dispossession and marginalization. Yet, at least, a number of governments have acknowledged the particular vulnerability of Indigenous Peoples during the pandemic and responded with targeted policies and programs. These included establishment of the National Aboriginal and Torres Strait Islander Advisory Group on COVID-19” (referred to as “the taskforce”) by Australia²⁰⁸ and Indigenous Community Support Fund by Canada, specific allocations for Indigenous people under the Coronavirus Preparedness and Response Supplemental Appropriations Act, 2020 of the United States,²⁰⁹ the Technical Guidelines for the Prevention of COVID-19 in Indigenous Territories and the Action Plan for Addressing COVID-19 in Indigenous Territories by Costa Rica, COVID-19 Binational Committee in Peru and Colombia etc.²¹⁰

However, India, with the second largest population of Indigenous Peoples in the world, has failed to adopt any specific policy or programme for its Indigenous Peoples. On 12 May 2020, Prime Minister Narendra Modi announced an economic package of Rs. 20 lakh crores (20 trillion Rupees, which is over 260 billion USD) for a “self-reliant” India. Yet, the economic package made no specific provisions for Indigenous Peoples. Similarly, on 12 May 2020, Arjun Munda, Union Minister for Tribal Affairs held a video conference with the heads of around 20 States and State tribal ministers, but the virtual conference reportedly ended up being a self-congratulatory exercise without any response to concerns and demands of tribals and forest dwellers.²¹¹



Open pit, iron ore mining,
negatively affecting the people and
biodiversity in Saranda Forest.
CREDIT: Signe Leth

Chapter 4

Conclusions and recommendations

Indigenous Peoples have borne the brunt of India's development since independence. The Planning Commission of India admitted in October 2001 that during 1951-1990, out of the 21.3 million people displaced by various development projects in seven states, namely Andhra Pradesh, Bihar, Gujarat, Maharashtra, Madhya Pradesh, Rajasthan and Orissa, about 8.54 million (i.e. 40.1%) were Indigenous Peoples, although they had constituted only 8% of the total population of the country as per the 1991 census.²¹²

The break-up of displacement due to various projects during 1951-1990 as per the Planning Commission report are given below:²¹³

Table 1: displacement due to various projects during 1951-1990				
Sl No.	Type of projects	Displaced Persons (in Lakh/hundred thousands)		
		Total	Tribals	% Tribals
1	Dams	164.0	63.2	38.5
2	Mines	25.5	13.3	52.2
3	Industries	12.5	3.1	25.0
4	Wildlife	6.0	4.5	75.0
5	Others	5.0	1.3	25.0
6	Total	213.0	85.4	40.1

The Planning Commission further stated that of the total 8.54 million displaced tribals, only 2.12 million were resettled, i.e. a vast majority of the 75.2% were not rehabilitated until 1990.²¹⁴ The Planning Commission while admitting this fact stated: *"As documented by various research studies, only a small percentage of tribal oustees could get the benefit of rehabilitation facilities. A vast majority of tribal people displaced by big projects are pushed into a vortex of increasing assetlessness, unemployment, debt-bondage and destitution. Women and children among them are the worst affected"*.²¹⁵

The displacement of the tribals continued to take place. In 2014, the Andhra Pradesh government took over the construction responsibility of the Indira Sagar Polavaram Project (dam) on Godavari river in Andhra Pradesh which will displace about 300,000 people including 150,000 tribals and 50,000 Dalits, and will submerge over 300 villages including tribal

hamlets.²¹⁶ On 3 July 2018, the National Commission for Scheduled Tribes (NCST) following a field visit to the site stated that the displaced tribals were not properly rehabilitated. The NCST said the alternative land given to the displaced tribals in lieu of the acquired land was not cultivable, their livelihood was destroyed and recommended to the state government of Andhra Pradesh to provide alternative means of livelihood and improve the condition of the displaced tribals.²¹⁷ The construction work at Polavaram Project (dam) continued as of date.²¹⁸

This report documents how government responses to the COVID-19 pandemic have not only failed to alleviate the impact of COVID-19 on India's Indigenous Peoples, but made their often already desperate situation even worse. To make matters worse, the government used the temporary paralysis of the country as an attempt to undermine existing environmental safeguards and laws protecting the rights of Indigenous Peoples and other marginalised sectors, ostensibly in order to help the country recover from the economic impact of the pandemic and to strengthen India's self-reliance.

However, despite the lockdown, which is partially continuing, civil society, intellectuals and opposition politicians across the country have come out in protest against these measures. This report has been produced not just in order to inform, but also to help identify what is needed to ensure that India's COVID-19 response respects human rights, and in particular the rights of Indigenous Peoples, and that it helps in addressing the global climate crisis and in protecting the environment. Thus, it is recommended that the government of India takes the following measures:

- Ensure that the Environmental Impact Assessment Notification, 2020, if adopted as an executive order, does not override, amend or supersede the statutory provisions, but expressly provides for compliance with the statutory laws like the PESA Act and the Forest Rights Act, and the Supreme Court judgments relating to powers of the Gram Sabha on giving consent for projects;
- Cancel the Etalin Hydro Electric Project in the Dibang Valley of Arunachal Pradesh and, instead, invest the allocated funds for developing green energies;

- Implement the recommendations of the UN Secretary General to not include coal in the COVID-19 recovery plans and cancel the coal mines allocated for auctioning and therefore, cancel the on-line auction slated for 11 September 2020;²¹⁹ and
- Develop a specific COVID-19 recovery plan for and with the Indigenous Peoples of the country.



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Indigenous musicians, Odisha.
CREDIT: Signe Leth

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As the entire world came to a standstill with the COVID-19 pandemic, India took a series of measures to imperil the future of the Indigenous Peoples of the country beyond repair. In the middle of the COVID-19 pandemic when the common people struggled for food, shelter, healthcare, transport etc after the sudden declaration of a national lockdown with effect from 25 March 2020, the Government of India chose to target the Indigenous Peoples and it continues till today.

The situation of the Indigenous Peoples was already precarious prior to the COVID-19, but the COVID-19 pandemic has worsened their situation as the State has continued to systematically target them.

The International Work Group for Indigenous Affairs (IWGIA), the National Campaign Against Torture (NCAT) and the Indigenous Lawyers Association of India (ILAI) have with this report documented the targeting of Indigenous Peoples of India in its COVID-19 recovery plans - especially the auctioning of the 41 coal blocks, mainly in the territories of the Indigenous Peoples slated for 11 September 2020.

United Nations Secretary General Antonio Guterres – without naming India – had stated on 26 June 2020, *“There is no good reason, for example, for any country to include coal in their COVID-19 recovery plans. This is the time to invest in energy sources that don’t pollute, don’t cause emissions, generate decent jobs and save money”*.

With this report we are urging all stakeholders to protect the rights of Indigenous Peoples and the environment, especially in tackling the COVID-19 pandemic and economic recovery plans.

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